

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 10-CR-268

**SAGARSEN HALDAR,
a/k/a Gopal Hari Das,**

Defendant.

DECISION AND ORDER

The defendant Sagarsen Haldar (“Haldar”) filed a Motion for a New Trial Under Federal Rule of Criminal Procedure 33(a) [ECF 45]. Haldar has submitted a brief along with twenty exhibits which show, Haldar argues, newly discovered evidence that justifies a new trial. The government has filed a response brief [ECF 49] and Haldar has filed a reply to the government’s response [ECF 50]. The Court has read the submissions and reviewed the record and decides as follows.

It is within the sound discretion of the trial court to determine whether a new trial is merited on the grounds of newly discovered evidence. To do so, the Court must determine that the evidence is first, “newly discovered” after trial, that the evidence could not have been, with due diligence, discovered prior to trial, that the evidence so discovered is credible and material, and that finally, the evidence if admitted at a new trial would probably result in acquittal.

The Court, as indicated, read the submissions including Haldar's twenty exhibits, compared this discovered evidence with the record, and finds that it does not meet any of the above standards.

The Court finds that it is not newly discovered evidence in as much as it was available prior to trial or could have been discovered through the exercise of due diligence. In addition, the Court in comparing the exhibits with the evidence has severe doubts as to its credibility.

Lastly, the nature of the evidence does not support the contention that, if admitted at a new trial, it would probably lead to an acquittal.

Because Haldar has not met any of the criteria for the Court to exercise its discretion in Haldar's favor, the motion for a new trial must be denied.

Dated at Milwaukee, Wisconsin, this 2nd day of May, 2012.

BY THE COURT:



HON. RUDOLPH T. RANDA
U.S. District Judge